

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NO. 1:11-md-02242-RWZ

IN RE: PROGRAF ANTITRUST LITIGATION

ORDER

September 30, 2014

ZOBEL, D.J.

On June 10, 2014, I denied defendant Astellas Pharma US Inc.'s ("Astellas") motion for summary judgment on all claims against it. See Docket # 450. Astellas now moves for entry of an order certifying an immediate appeal under 28 U.S.C. § 1292(b). Interlocutory certification "should be used sparingly and only in exceptional circumstances," McGillicuddy v. Clements, 746 F.2d 76, 76 at n.1 (1st Cir. 1984), and Astellas has not shown it is warranted here. The motion (Docket # 457) is DENIED.<sup>1</sup>

Astellas also seeks to supplement its expert witness disclosures to include Dr. Joseph Buell as a non-reporting rebuttal expert under Fed. R. Civ. P. 26(a)(2)(C). Not only is the request untimely, but Dr. Buell does not meet the Rule's criteria for non-reporting experts, as detailed more fully in the court's prior order on this issue. See Docket # 450. Astellas's motion (Docket # 474) is therefore DENIED.<sup>2</sup>

September 30, 2014

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

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<sup>1</sup> Astellas's unopposed motion for leave to file a reply in support (Docket # 466) is ALLOWED.

<sup>2</sup> Plaintiffs' assented-to motion to file its opposition under seal (Docket # 479) is ALLOWED.

UNITED STATES DISTRICT JUDGE